

board. If only one collective bargaining agreement is in effect among the districts which are party to the reorganization, then that agreement shall continue in full force and effect until a successor agreement is negotiated serve as the base agreement, and the employees of the other districts involved in the formation of the new district shall automatically be accreted to the bargaining unit of that collective bargaining agreement for purposes of negotiating the contract for the following year without further action by the public employment relations board. The board of the newly formed district, using the base agreement as its existing contract, shall bargain with the combined employees of the existing districts for the school year beginning with the effective date of the reorganization. The bargaining shall be completed by March 15 prior to the school year in which the reorganization becomes effective or within one hundred twenty days after the organization of the new board, whichever is later. If a bargaining agreement was already concluded by the board and employees of the existing district with the contract serving as the base agreement for the school year beginning with the effective date of the reorganization, that agreement shall be void. However, if the base agreement contains multiyear provisions affecting school years subsequent to the effective date of the reorganization, the base agreement shall remain in effect as specified in the agreement.

The provisions of the base agreement shall apply to the offering of new contracts, or continuation, modification, or termination of existing contracts as provided in subsection 1 of this section.

Sec. 9. Section 275.41, Code 1985, is amended by adding the following new subsection:

**NEW SUBSECTION. 9.** The board of the newly formed district shall appoint an acting superintendent and an acting board secretary. The appointment of the acting superintendent shall not be subject to the continuing contract provision of sections 279.20, 279.23, and 279.24.

Approved May 29, 1985

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**CHAPTER 222**  
**ABANDONED PROPERTY**  
*H.F. 696*

**AN ACT** relating to abandoned property, by providing for a civil action, providing for the issuance of injunctions and other orders, and providing for appointing a receiver with certain powers, duties, and liability.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. **NEW SECTION. 657A.1 DEFINITIONS.**

As used in this chapter, unless context requires otherwise:

1. "Abandoned" or "abandonment" means that a building has remained vacant and has been in violation of the housing code of the city in which the property is located for a period of six consecutive months.

2. "Abate" or "abatement" in connection with property means the removal or correction of hazardous conditions deemed to constitute a public nuisance or the making of improvements needed to effect a rehabilitation of the property consistent with maintaining safe and habitable conditions over the remaining useful life of the property. However, the closing or boarding up of a building or structure that is found to be a public nuisance is not an abatement of the nuisance.

3. "Building" means a building or structure located in a city with a population of thirty-five thousand or more, as determined by the last preceding certified federal census, which is used or intended to be used for residential purposes and includes a building or structure in which some floors may be used for retail stores, shops, salesrooms, markets, or similar commercial uses, or for offices, banks, civic administration activities, professional services, or similar business or civic uses, and other floors are used, designed, or intended to be used for residential purposes.

4. "Interested person" means an owner, mortgagee, lienholder, or other person that possesses an interest of record or an interest otherwise provable in property that becomes subject to the jurisdiction of the court pursuant to this chapter, the city in which the property is located, and an applicant for the appointment as receiver pursuant to this chapter.

5. "Neighboring landowner" means an owner of property which is located within five hundred feet of property that becomes subject to the jurisdiction of the court pursuant to this chapter.

6. "Owner" includes a person who is purchasing property by land installment contract or under a duly executed purchase contract.

7. "Public nuisance" means a building that is a menace to the public health, welfare, or safety, or that is structurally unsafe, unsanitary, or not provided with adequate safe egress, or that constitutes a fire hazard, or is otherwise dangerous to human life, or that in relation to the existing use constitutes a hazard to the public health, welfare, or safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment.

#### Sec. 2. NEW SECTION. 657A.2 PETITION.

1. A petition for abatement under this chapter may be filed in the district court of the county in which the property is located, by the city in which the property is located, a neighboring landowner, or a duly organized nonprofit corporation which has as one of its goals the improvement of housing conditions in the county or city in which the property in question is located. Service on the owner shall be by personal service or by certified mail, or if service cannot be made by either method, by posting the notice in a conspicuous place on the building and by publication.

2. If a petition filed pursuant to this chapter alleges that a building is abandoned and is in a dangerous or unsafe condition, the city, neighboring landowner, or nonprofit corporation may apply for an injunction requiring the owner of the building to correct the condition or to eliminate the condition or violation. The court shall conduct a hearing at least twenty days after written notice of the application for an injunction and of the date and time of the hearing is served upon the owner of the building. Notice of the hearing shall be served in the manner provided in subsection 1.

3. If the court finds at the hearing that the building is abandoned and is in a dangerous or unsafe condition, the court shall issue an injunction requiring the owner to correct the condition or to eliminate the violation, or another order that the court considers necessary or appropriate to correct the condition or to eliminate the violation.

4. In a proceeding under this chapter, if the court makes the finding described in subsection 3 and additionally finds that the building in question is a public nuisance and that the owner of the building has been afforded reasonable opportunity to correct the dangerous or unsafe condition found or to eliminate the violation found but has refused or failed to do so, the judge shall cause notice of the findings to be served upon the owner, each mortgagee or other lienholder of record, and other known interested persons, and shall order the persons served to show cause why a receiver should not be appointed to perform work and to furnish material that reasonably may be required to abate the public nuisance. The notice shall be served in the manner provided in subsection 1.

5. In a proceeding under this chapter, if the court determines the building is not abandoned or is not in a dangerous or unsafe condition, the court shall dismiss the petition and may require the petitioner to pay the owner's reasonable attorney fees actually incurred.

**Sec. 3. NEW SECTION. 657A.3 INTERESTED PERSONS — OPPORTUNITY TO ABATE PUBLIC NUISANCE.**

1. Before appointing a receiver to perform work or to furnish material to abate a public nuisance under this chapter, the court shall conduct a hearing at which the court shall offer mortgagees of record, lienholders of record, or other known interested persons in the order of priority of interest in title, the opportunity to undertake the work and to furnish the materials necessary to abate the public nuisance. The court shall require the person selected to demonstrate the ability to undertake promptly the work required and to post security for the performance of the work. All amounts expended by the person toward abating the public nuisance are a lien on the property if the expenditures were approved in advance by the judge and if the person desires the lien. The lien shall bear interest at the rate provided for judgments pursuant to section 535.3, and shall be payable upon terms approved by the judge. If a certified copy of the court order that approved the expenses and the terms of payment for the lien, and a description of the property in question are filed for record within thirty days of the date of issuance of the order in the office of the county recorder of the county in which the property is located, the lien has the same priority as the mortgage of a receiver as provided in section 657A.7.

2. If the court determines at the hearing conducted pursuant to section 657A.3, subsection 1, that no interested person can undertake the work and furnish the materials required to abate the public nuisance, or if the court determines at any time after the hearing that an interested person who is undertaking corrective work pursuant to this section cannot or will not proceed, or has not proceeded with due diligence, the court may appoint a receiver to take possession and control of the property. The receiver shall be appointed in the manner provided in section 657A.4.

**Sec. 4. NEW SECTION. 657A.4 APPOINTMENT OF RECEIVER.**

1. After conducting a hearing pursuant to section 657A.3, the court may appoint a receiver to take possession and control of the property in question. A person shall not be appointed as a receiver unless the person has first provided the court with a viable financial and construction plan for the rehabilitation of the property in question and has demonstrated the capacity and expertise to perform the required work in a satisfactory manner. The appointed receiver may be a financial institution that possesses an interest of record in the property, a nonprofit corporation that is duly organized and exists for the primary purpose of improving housing conditions in the county or city in which the property in question is located, or any person deemed qualified by the court. No part of the net earnings of a nonprofit corporation serving as a receiver under this section shall benefit a private shareholder or individual. Membership

on the board of trustees of a nonprofit corporation does not constitute the holding of a public office or employment and is not an interest, either direct or indirect, in a contract or expenditure of money by a city. No member of a board of trustees of a nonprofit corporation appointed as receiver is disqualified from holding public office or employment, nor is a member required to forfeit public office or employment by reason of the membership on the board of trustees.

**Sec. 5. NEW SECTION. 657A.5 DETERMINATION OF COSTS OF ABATEMENT.**

1. Prior to ordering work or the furnishing of materials to abate a public nuisance under this chapter, the court shall make all of the following findings:

a. The estimated cost of the labor, materials, and financing required to abate the public nuisance.

b. The estimated income and expenses of the property after the furnishing of the materials and the completion of the repairs and improvements.

c. The need for and terms of financing for the performance of the work and the furnishing of the materials.

d. If repair and rehabilitation of the property are not found to be feasible, the cost of demolition of the property or the portions of the property that constitute the public nuisance.

2. Upon the written request of all the known interested persons to have the property or portions of the property demolished, the court may order the demolition. However, demolition shall not be ordered unless the requesting persons have paid the costs of demolition, the costs of the receivership, and all notes and mortgages of the receivership.

**Sec. 6. NEW SECTION. 657A.6 POWERS AND DUTIES OF RECEIVER.**

Before proceeding with the receiver's duties, a receiver appointed by the court shall post a bond in an amount designated by the court. The court may empower the receiver to do the following:

1. Take possession and control of the property, operate and manage the property, establish and collect rents and income, lease and rent the property, and evict tenants. An existing housing or building ordinance violation does not restrict the receiver's authority pursuant to this subsection.

2. Pay all expenses of operating and conserving the property, including but not limited to the cost of electricity, gas, water, sewerage, heating fuel, repairs and supplies, custodian services, taxes, assessments, and insurance premiums, and hire and pay reasonable compensation to a managing agent.

3. Pay prereceivership mortgages and other liens and installments of prereceivership mortgages and other liens.

4. Perform or enter into contracts for the performance of work and the furnishing of materials necessary to abate the public nuisance, and obtain financing for the abatement of the public nuisance.

5. Pursuant to court order, remove and dispose of personal property which is abandoned, stored, or otherwise located on the property, that creates a dangerous or unsafe condition or that constitutes a violation of housing or building regulations or ordinances.

6. Obtain mortgage insurance for a receiver's mortgage from an agency of the federal government.

7. Enter into agreements and take actions necessary to maintain and preserve the property and to comply with housing and building regulations and ordinances.

8. Give the custody of the property and the opportunity to abate the nuisance and operate the property to the owner or to a mortgagee or a lienholder of record.

9. Issue notes and secure the notes by mortgages bearing interest at the rate provided for judgments pursuant to section 535.3, and terms and conditions as approved by the court. When transferred by the receiver in return for valuable consideration in money, material, labor, or services, the notes issued by the receiver are freely transferable.

**Sec. 7. NEW SECTION. 657A.7 PRIORITY OF RECEIVER'S MORTGAGE.**

1. If the receiver's mortgage is filed for record in the office of the county recorder of the county in which the property is located within sixty days of the issuance of a secured note, the receiver's mortgage is a first lien upon the property and is superior to claims of the receiver and to all prior or subsequent liens and encumbrances except taxes and assessments. Priority among the receiver's mortgages is determined by the order in which the mortgages are recorded.

2. The creation of a mortgage lien under this chapter prior to or superior to a mortgage of record at the time the receiver's mortgage lien was created does not disqualify a prior recorded mortgage as a legal investment.

**Sec. 8. NEW SECTION. 657A.8 ASSESSMENT OF COSTS.**

The court may assess the costs and expenses set out in section 657A.6, subsection 2, and may approve receiver's fees to the extent that the fees are not covered by the income from the property.

**Sec. 9. NEW SECTION. 657A.9 DISCHARGE OF RECEIVER.**

The receiver may be discharged at any time in the discretion of the court. The receiver shall be discharged when all of the following have occurred:

1. The public nuisance has been abated.
2. The costs of the receivership have been paid.

3. Either all the receiver's notes and mortgages issued pursuant to this chapter have been paid, or all the holders of the notes and mortgages request in writing that the receiver be discharged.

**Sec. 10. NEW SECTION. 657A.10 COMPENSATION AND LIABILITY OF RECEIVER.**

1. A receiver appointed under this chapter is entitled to receive fees and commissions in the same manner and to the same extent as receivers appointed in actions to foreclose mortgages.

2. The receiver appointed under this section is not civilly or criminally liable for actions pursuant to this section taken in good faith.

**Sec. 11. NEW SECTION. 657A.11 JURISDICTION — REMEDIES.**

1. An action pursuant to this chapter is exclusively within the jurisdiction of district judges as provided in section 602.6202.

2. This chapter does not prevent a person from using other remedies or procedures to enforce building or housing ordinances or to correct or remove public nuisances.

Approved May 30, 1985

**CHAPTER 223**  
**SALES TAX EXEMPTION**  
*S.F. 574*

**AN ACT** relating to when electricity, steam, and other taxable services used to produce marketable food products for human consumption are sold for processing for purposes of the processing exemption under the state sales, services and use tax.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 422.42, subsection 3, unnumbered paragraph 1, Code 1985, is amended to read as follows:

"Retail sale" or "sale at retail" means the sale to a consumer or to any person for any purpose, other than for processing or for resale of tangible personal property or taxable services, or for resale of tangible personal property in connection with taxable services, and the sale of gas, electricity, water, and communication service to retail consumers or users, but does not include commercial fertilizer or agricultural limestone or materials, but not tools or equipment, which are to be used in disease control, weed control, insect control or health promotion of plants or livestock produced as part of agricultural production for market, or electricity or steam or any taxable service when purchased and used in the processing of tangible personal property intended to be sold ultimately at retail. When used by a manufacturer of food products, electricity, steam, and other taxable services are sold for processing when used to produce marketable food products for human consumption, including but not limited to, treatment of material to change its form, context or condition, in order to produce the food product, maintenance of quality or integrity of the food product, changing or maintenance of temperature levels necessary to avoid spoilage or to hold the food product in marketable condition, maintenance of environmental conditions necessary for the safe or efficient use of machinery and material used to produce the food product, sanitation and quality control activities, formation of packaging, placement into shipping containers, and movement of the material or food product until shipment from the building of manufacture. Tangible personal property is sold for processing within the meaning of this subsection only when it is intended that ~~such~~ the property shall by means of fabrication, compounding, manufacturing, or germination become an integral part of other tangible personal property intended to be sold ultimately at retail, or shall be consumed as fuel in creating heat, power, or steam for processing including grain drying or for generating electric current, or be consumed in implements of husbandry engaged in agricultural production, or ~~such~~ the property is a chemical, solvent, sorbent, or reagent, which is directly used and is consumed, dissipated, or depleted, in processing personal property which is intended to be sold ultimately at retail, and which may not become a component or integral part of the finished product. The distribution to the public of free newspapers or shoppers guides ~~shall be deemed~~ is a retail sale for purposes of the processing exemption.

Approved May 30, 1985